



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

WAGGONER CARR
ATTORNEY GENERAL

November 15, 1963

Honorable William H. Hunter
District Attorney
69th Judicial District
Dalhart, Texas

Opinion No. C-178

Re: Construction of House Bill
395, Acts 1963, 58th Leg.,
R.S., Ch. 327, p. 857.

Dear Mr. Hunter:

We are in receipt of your request for opinion regarding our construction of House Bill 395 of the 58th Legislature, codified as Article 6252-14 of Vernon's Civil Statutes. The Commissioners' Court of Deaf Smith County is considering the establishment of a retirement program for county employees age 65 and desires our opinion in connection with House Bill 395.

House Bill 395 of the 58th Legislature states as follows:

"Section 1. It is hereby declared to be the policy of the State of Texas that no person shall be denied the right to work, to earn a living, and to support himself and his family solely because of age.

"Sec. 2. No agency, board, commission, department, or institution of the government of the State of Texas, nor any political subdivision of the State of Texas shall establish a maximum age under sixty-five (65) years nor a minimum age over twenty-one (21) years for employment, nor shall any person who is a citizen of this State be denied employment by any such agency, board, commission, department or institution or any political subdivision of the State of Texas solely because of age; provided, however, nothing in this Act shall be construed to prevent the imposition of minimum and maximum age restrictions for law enforcement peace officers or for fire-fighters; provided, further, that the provisions of this Act shall not apply to institutions of higher education with established retirement programs." (Emphasis added)

In Section 1 of the statute in question the Legislature has declared it to be the policy of the State that no person shall be refused employment solely because of age. Section 2 of the Act places maximum and minimum limits on the State or its subdivisions

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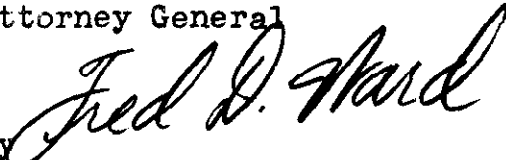
in using age alone as a basis for denial of employment. Since the Commissioners' Court of Deaf Smith County does not desire to place the maximum age limit under sixty-five years of age, it is clear that they may do so within the provisions of House Bill 395. The only restriction on the maximum age limit which they must consider in the establishment of their retirement program is that the age for compulsory retirement cannot be under sixty-five years.

SUMMARY

The Commissioners' Court of Deaf Smith County may establish a retirement program for county employees as long as the age for compulsory retirement is not under sixty-five years. Article 6252-14, V.C.S.

Yours very truly,

WAGGONER CARR
Attorney General

By 
Fred D. Ward
Assistant

FDW:wb

APPROVED:
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL

BY: Stanton Stone